

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

D/F

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EASTERN SAVINGS BANK, FSB,

Plaintiff,

-against-

MEMORANDUM & ORDER

13-CV-1108 (NGG) (LB)

ALAN M. McLAUGHLIN A/K/A
ALAN MCLAUGHLIN, NEW YORK
ENVIRONMENTAL CONTROL BOARD,
BOARD OF MANAGERS OF HORIZON
VILLAGE CONDOMINIUM 3, ROBERT
HOPKINS, and ADELLA HOPKINS,

Defendants.

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NICHOLAS G. GARAUFIS, United States District Judge.

On March 1, 2013, Plaintiff Eastern Savings Bank, FSB brought this diversity action to foreclose on a mortgage executed by Defendant Alan M. McLaughlin and encumbering certain real property located at 537 Willow Road, Apartment 1, in Staten Island, New York ("the Mortgaged Premises"). (See Compl. (Dkt. 1).) Pursuant to a court Order, the Mortgaged Premises was sold at a public auction. (See Referee Report of Sale (Dkt. 44).) On December 15, 2014, Plaintiff moved for an order confirming the Referee's Report of Sale and fair market value of the property and granting Plaintiff leave to enter a deficiency judgment against McLaughlin, the only defendant who has appeared in this action. (Not. of Mot. (Dkt. 45).) McLaughlin belatedly opposed the motion, and Plaintiff responded. (Decl. in Opp'n to Mot. (Dkt. 48); Mem. of Law in Further Supp. of Mot. (Dkt. 49).) By Order dated April 7, 2015, the court referred the motion for a deficiency judgment to Magistrate Judge Lois Bloom for a Report and Recommendation ("R&R") pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). (See Order (Dkt. 52).)

On August 17, 2015, Judge Bloom issued an R&R recommending that the court confirm the Referee's Report of Sale as modified in the R&R,¹ confirm the appraiser's fair market value of the Mortgaged Premises of \$260,000, and grant leave to Plaintiff to enter a deficiency judgment against McLaughlin in the amount of \$11,875.60, plus interest at the rate of 0.11 percent from September 26, 2014, through the date of entry of any deficiency judgment, and any interest on unpaid sums thereafter at the federal statutory rate effective at the time deficiency judgment is entered.² (R&R (Dkt. 53) at 14.)

No party has objected to Judge Bloom's R&R, and the time to do so has passed. See Fed. R. Civ. P. 72(b)(2). (See also R&R at 15 ("[T]he parties shall have fourteen (14) days from service of this Report to file objections. . . . Failure to file a timely objection to this Report waives any further judicial review.")) Therefore, the court reviews the R&R for clear error. See Gesualdi v. Mack Excavation & Trailer Serv., Inc., No. 09-CV-2502 (KAM) (JO), 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010); La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000); cf. 28 U.S.C. § 636(b)(1). Finding no clear error, the court ADOPTS IN FULL the R&R and accordingly GRANTS Plaintiff's motion for deficiency judgment. See Porter v. Potter, 219 F. App'x 112 (2d Cir. 2007) (summary order).

¹ Judge Bloom found that the Referee's Report of Sale incorrectly calculated the interest rate and erroneously included an extra day in the interest calculation. (See R&R at 8-10.) Judge Bloom helpfully and accurately recalculated the amounts due. (Id.)

² The federal statutory interest rate is available at <http://www.ustd.uscourts.gov/documents/judgpage.html>. As of September 16, 2015, the federal rate is 0.39 percent.

The Clerk of Court is respectfully DIRECTED to enter a deficiency judgment against McLaughlin in the amount provided in Judge Bloom's R&R.

SO ORDERED.

Dated: Brooklyn, New York
September 6, 2015

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS
United States District Judge